

# General Government Reserves Management.

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## A BILL INTITULED

AN ACT for the Management of General Government Reserves. Title.

**BE IT ENACTED** by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows— Preamble.

1. The Short Title of this Act shall be "The General Government Reserves Management Act 1869." Short Title

2. In this Act the term "Public Reserve" shall mean any lands that may have been and now are or may hereafter be reserved by the Governor in Council under the twelfth section of "The Waste Lands Act 1858" or any legislative modification thereof or by the Governor or Governor in Council or any other lawful authority under "The New Zealand Settlements Act 1863" or "The New Zealand Settlements Acts Amendment Act 1866" or "The Confiscated Lands Act 1867" or under any regulations made by virtue of the last named Acts or any of them and the title whereto shall for the time being be vested in the Crown. Interpretation.

Penalty for unlawfully occupying.

3. If any person shall occupy any Public Reserve either by residing or erecting any hut or building thereon or by clearing enclosing or cultivating any part thereof or shall fell remove or sell the timber growing or being on any such land or otherwise unlawfully occupy the same without having a lease or license for such purpose respectively every such person shall on conviction of any of the acts hereinbefore mentioned forfeit and pay any sum not exceeding fifty pounds to be recovered in a summary way Provided that no person shall be convicted of any of the offences aforesaid except on the information or complaint of the Secretary for Crown Lands or of some person by him authorized in writing in that behalf.

Proviso.

Penalty for persisting in such occupancy.

4. If any person so convicted as aforesaid shall for the space of one calendar month continue in possession or occupation of such land or otherwise persist in the unlawful act for which he shall have been so convicted every such person shall upon conviction thereof and upon such information or complaint as aforesaid forfeit and pay any sum not less than ten pounds nor more than fifty pounds to be recovered in a summary way.

When Public Reserve is occupied by any one without right title or license possession may be recovered.

5. If any person shall without right title or license be in possession of any land it shall be lawful for the Secretary for Crown Lands or any person authorized by him in writing on proof to the satisfaction of the Court that such land is a Public Reserve to enter a plaint in the Resident Magistrate's Court of the district in which the premises lie to eject such person therefrom and if he shall have given to the person in occupation notice in writing to quit the land it shall be lawful for him in the same plaint to insert a claim to any amount for damages for the occupation of the land subsequently to the service of such notice.

Summons in action for possession how to be served.

6. A summons for the recovery of land under this Act may be served like other summonses to appear to plaints in Resident Magistrate's Courts and if the defendant cannot be found and his place of dwelling shall either not be known or admission thereto cannot be obtained for serving any such summons a copy of the summons may be posted on some conspicuous part of the premises sought to be recovered and such posting shall be deemed good service on the defendant.

If defendant give proof of title or give security for payment of costs and damages if proceedings for possession of the land be brought against him in a superior Court Magistrate is to dismiss the case.

7. If upon the hearing of such plaint as last aforesaid the defendant shall appear and dispute the right of Her Majesty to possession and shall show to the Court a *prima facie* right or title in himself to the possession of the land in question or if he will become bound in a bond with two sureties to be approved of by the Court in such sum as to the Court shall seem reasonable (regard being had to the nature of the property and the probable costs of such proceedings as are hereinafter mentioned) to abide the result of any information writ of intrusion or other proceeding for possession of such Public Reserve or part thereof which may be commenced by or on behalf of Her Majesty against him in any Court of competent jurisdiction within three months of the date of such bond and in case judgment upon such information writ of intrusion or other proceeding shall be given for Her Majesty to pay to Her Majesty the costs which Her Majesty shall be therein adjudged to recover and also the cost of the proceedings in the Resident Magistrate's Court and damages for the illegal occupation of the land up to the time of such judgment then the Court shall dismiss the case Such bond shall be made to Her Majesty and shall be approved and signed by the Resident Magistrate or a Justice of the Peace and shall be in the Form numbered one in the Schedule hereto as near as may be.

Resident Magistrate may order delivery of possession of premises and award damages.

8. If at the time appointed for the hearing of any such plaint as last aforesaid the defendant having been duly summoned shall not appear or shall appear but shall neither give any such proof of his own

right to possession nor enter into such bond as aforesaid the Court may proceed to hear and determine the case and may order that the defendant shall leave the premises mentioned in the plaint and cease from the occupation thereof either forthwith or on or before such day as the Court shall think fit to name and that the defendant do pay costs and such part of the sum if any claimed for damages as to the Court shall seem reasonable And if the defendant do not leave and cease from the occupation of the premises in pursuance of such order the Court or the Resident Magistrate of the district or any Justice of the Peace may issue his warrant in the Form numbered two in the Schedule hereto authorizing and requiring the bailiff of the Court or any constable to eject the defendant from such premises and to give possession of such premises to the person entering such plaint for and on behalf of Her Majesty.

9. Any warrant under the hand of a Resident Magistrate or Justice of the Peace to a bailiff or constable to give possession of a tenement shall justify him in entering upon the premises named therein with such assistants as he shall deem necessary and in ejecting the defendant therefrom and on giving possession accordingly but no entry under any such warrant shall be made except between the hours of nine in the morning and four in the afternoon.

Warrant sufficient authority to bailiff for entering premises within certain hours.

10. Every such warrant shall on whatever day it may be issued bear date on the day next after the last day named by the Court for delivery of possession of the premises in question and shall continue in force for three months from such date and no longer but no order for delivery of possession need be drawn up and served.

Warrant to be in force for three months.

11. It shall not be lawful to bring any action or prosecution against any Resident Magistrate or Justice of the Peace by whom any such warrant as aforesaid shall have been issued for issuing the same or against any bailiff or constable or other person by whom such warrant may be executed or summons affixed for executing the same or affixing such summons by reason that Her Majesty had not lawful right to the possession of the premises.

Protection to Magistrate issuing warrant and bailiff executing same.

12. The thirteenth section of "The Public Reserves Act 1854" is hereby repealed.

Section 13 of "The Public Reserves Act 1854" repealed. Power to Governor to lease reserves.

13. It shall be lawful for the Governor with the advice of his Executive Council at any time and from time to time after the passing of this Act to alienate by way of lease in the name of Her Majesty for any term not exceeding twenty-one years and on such terms and conditions as to the Governor in Council shall seem fit any lands that may have been or may hereafter be reserved by the Governor as in the second section of this Act mentioned.

14. All rents issues and profits arising from the letting of any Public Reserve and all damages and sums of money recovered for illegal occupation of Public Reserves not being penalties or costs shall be paid from time to time as the same shall arise into the branch of the Public Account called the Special Fund to the credit of an account to be called "The General Government Reserves Account" and out of such moneys there shall be paid all the costs charges and expenses incurred in and about the management and letting of such Public Reserves as are in this Act provided for Provided always that if the moneys for the time being standing to the credit of such account shall be insufficient to pay such costs charges and expenses it shall be lawful for the Colonial Treasurer to pay and advance the same out of the Consolidated Fund and that all moneys advanced out of the Consolidated Fund shall be a first charge upon and be repaid out of the first moneys thereafter carried to the credit of the General Government Reserves Account.

Rents &c. to be paid to the Special Fund.

15. Every Court of Petty Sessions established under the "Petty Sessions Act 1865" shall have and exercise the same powers and

Courts of Petty Sessions to have powers of Resident Magistrates.

jurisdiction as a Resident Magistrate's Court has or as may be exercised by a Resident Magistrate under this Act.

In outlying districts Resident Magistrates or two Justices may act.

16. In parts of the Colony not comprised within any Resident Magistrate's district or district of a Court of Petty Sessions any Resident Magistrate or any two or more Justices of the Peace shall have and exercise the powers hereby conferred upon Resident Magistrates of Districts and Resident Magistrate's Courts.

Penalties &c. cumulative.

17. The penalties and remedies imposed and given by this Act shall be in addition and without prejudice to any penalties and remedies imposed and given by any law or Act relating to the unlawful occupation of lands of the Crown.

## SCHEDULE.

### 1.

#### BOND TO BE GIVEN BY DEFENDANT UNDER SECTION 7.

Know all men by these presents that we M.N. of \_\_\_\_\_ and N.S. of \_\_\_\_\_ and R.T. of \_\_\_\_\_ are jointly and severally held and firmly bound to Her Majesty the Queen her heirs and successors in the sum of £ \_\_\_\_\_ to be paid to Her said Majesty her heirs successors or assigns for which payment to be made we bind ourselves and each and every of us in the whole our and each of our heirs executors and administrators jointly and severally firmly by these presents.

Sealed with our seals and dated this	}	M.N.
day of one thousand eight		N.S.
hundred and		R.T.

WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_ last past E.S. entered a plaint against the above bounden M.N. in the Resident Magistrate's Court of the district of \_\_\_\_\_ to recover possession of [*here describe the tenements sought to be recovered*] for and on behalf of Her Majesty the Queen. And whereas the above bounden \_\_\_\_\_ disputes the right of Her Majesty to the possession of the said tenements and is ready to abide the result of any information writ of intrusion or other proceeding for the possession of the said tenements which may be commenced against him by or on behalf of Her Majesty her heirs or successors within three calendar months of the date hereof in any Court of competent jurisdiction and in case judgment upon such information writ of intrusion or other proceeding shall be given for Her Majesty her heirs or successors to pay the costs which Her Majesty shall be therein adjudged to recover and also the costs of the proceedings in the Resident Magistrate's Court and damages for the illegal occupation of the land up to the time of such judgment And whereas the security intended to be hereby given has been approved of by J.S. Resident Magistrate of the said district as appears by his allowance in the margin hereof\* Now the condition of this obligation is such that if the above bounden M.N. shall abide the result of any information writ of intrusion or other proceeding for the possession of the said tenements which may be commenced against him by or on behalf of Her Majesty within three calendar months from the date hereof in any Court of competent jurisdiction and if in case judgment upon such information writ of intrusion or other proceeding shall be given for Her Majesty her heirs or successors the above bounden M.N. N.S. or R.T. or any of them shall pay to the Colonial Treasurer of New Zealand for the use of Her Majesty the costs which Her Majesty shall therein be adjudged to recover and also the costs of the proceedings in the Resident Magistrate's Court and damages for the illegal occupation of the land up to the time of such judgment then this obligation shall be void otherwise shall remain in full force.

\* I approve of this Bond—J.S. Resident Magistrate.

Signed sealed and delivered by the above bounden \_\_\_\_\_ and \_\_\_\_\_ in the presence of \_\_\_\_\_

### 2.

#### WARRANT FOR GIVING POSSESSION OF A TENEMENT UNDER SECTION 8.

In the Resident Magistrate's Court of \_\_\_\_\_  
Between E.S. plaintiff and M.N. defendant.  
To W.T. bailiff of the Resident Magistrate's District of \_\_\_\_\_

WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_ last past at a Resident Magistrate's Court holden at \_\_\_\_\_ it was ordered that the defendant should give to the plaintiff for or on behalf of Her Majesty possession of a certain [*here describe the tenements ordered to be delivered up*] situate at \_\_\_\_\_ in the district aforesaid and that the plaintiff should recover against the defendant for and on behalf of Her Majesty the sum of £ \_\_\_\_\_ for damages for the occupation of the said tenement and also the sum of £ \_\_\_\_\_ for costs making together the sum of £ \_\_\_\_\_. And whereas the defendant has not obeyed the said order This is therefore to authorize and require you forthwith to enter upon the hereinbefore-mentioned premises with such assistants

as you shall deem necessary between the hours of nine in the morning and four in the afternoon and to deliver possession thereof to the plaintiff E.S. for or on behalf of Her Majesty And this is further to authorize and command you forthwith to make and levy the said sum of £                      and the costs of this warrant and execution by distress and sale of the goods and chattels of the defendant wheresoever they may be found (excepting the wearing apparel and bedding of the defendant or his family and the tools and implements of his trade (if any) to the value of five pounds and also to seize and take any money or bank notes and any cheques bills of exchange promissory notes bonds specialties or securities for money of the defendant which may be there found or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same and to pay the amount so levied to the Clerk of this Court and make return to me of what you have done under this warrant on or before the                      day of                      next ensuing.

Given under my hand this                      day of                      18 .

J.S. Resident Magistrate.

	£	s.	d.
Amount adjudged to be paid -			
Warrant                      -                      -                      -			
Executing the same                      -                      -			
Poundage                      -                      -                      -			
	£		

The bailiff is entitled to levy in addition to the above one shilling per mile reckoned one way for every mile beyond two from the Court House to the tenements of which possession is to be given and if the goods be not seized upon such tenements the same mileage to the place where a seizure shall be made and poundage at the rate of one shilling in the pound upon the value of the goods seized up to the amount to be levied as stated above.

*Notice.*—If the amount to be levied be paid to the bailiff within one hour after entry he is not to receive any further sum than the amount directed to be levied as stated above and poundage on the levy The goods and chattels are not to be sold till after the end of five days next following the day on which they shall be taken unless they be of a perishable nature or at the request of the defendant The cost of keeping possession of goods seized is not to exceed eight shillings per day.